

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

June 6, 1997

UNITED STATES OF AMERICA)	
Complainant)	8 U.S.C. § 1324a Proceeding
)	
v.)	OCAHO Case No. 97A00018
)	
J. KATO & ASSOCIATES, INC.,)	
A KANSAS CORPORATION)	

FINAL DECISION AND ORDER OF DISMISSAL

This is an action arising under the Immigration and Nationality Act, as amended, 8 U.S.C. § 1324a (INA or the Act), in which the United States Department of Justice, Immigration and Naturalization Service (INS) is the complainant and J. Kato & Associates, Inc., a Kansas Corporation, is the respondent. On November 4, 1996, INS filed a complaint in two counts with the Office of the Chief Administrative Hearing Officer (OCAHO) alleging that 1) respondent hired and/or continued to employ one named individual after November 6, 1986, knowing that individual to be an alien not authorized for employment in the United States, and 2) that respondent failed to ensure that the same individual properly completed Section 1 of the Employment Eligibility Verification Form (Form I-9), and failed itself to properly complete Section 2 of the Form I-9 for that individual within three (3) business days of hire. A copy of the complaint, along with a notice of hearing were sent to respondent via certified mail, return receipt requested. The return receipt indicates that service was complete on November 13, 1996. Respondent timely filed its answer on November 21, 1996, admitting that it hired the individual but denying all the other material allegations.

After further proceedings, the parties filed a settlement agreement on June 2, 1997 which contains consent findings and resolves all issues raised by the complaint, and tendered therewith a proposed decision and order.

Under OCAHO Rules of Practice and Procedure¹:

(a) Where the parties or their authorized representatives or their counsel have entered into a proposed settlement agreement, they shall:

(1) Submit to the presiding Administrative Law Judge:

¹ Rules of Practice and Procedure for Administrative Hearings, 28 C.F.R., pt. 68 (1995).

- (i) The proposed agreement containing consent findings; and
 - (ii) A proposed decision and order; or (emphasis added)
- (2) Notify the Administrative Law Judge that the parties have reached a full settlement and have agreed to dismissal of the action. Dismissal of the action shall be subject to the approval of the Administrative Law Judge.

28 C.F.R. § 68.14.

In this case, I find that the parties have complied with the requirements of 28 C.F.R. § 68.14(a)(1). I have reviewed the Settlement Agreement, which is incorporated herein by reference, and I find its terms are appropriate pursuant to 28 C.F.R. § 68.14(a)(1). I further find that agreement contains appropriate provisions pursuant to 28 C.F.R. 68.14(b) and is acceptable as to its timeliness, form, and substance pursuant to 28 C.F.R. § 68.14(c).

Respondent has withdrawn its answer and has consented to a finding that it violated 8 U.S.C. § 1324(a)(1)(A), Section 274A(a)(1)(A) of the INA, in that respondent knowingly employed an alien not authorized employment in the United States, and violated 8 U.S.C. § 1324a(a)(1)(B), Section 274A(a)(1)(B) of the INA, in that respondent failed to comply with the verification requirements of the Immigration Reform and Control Act of 1986.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. That respondent cease and desist from any further violations of section 274A of the Act, 8 U.S.C. § 1324a.
2. That the respondent pay a civil money penalty in the sum of One Thousand dollars (\$1,000.00) for the violations set out in Count I and II, as modified and governed by the parties' Settlement Agreement.
3. That each party bear its own attorney fees, other expenses, and costs incurred by such party in connection with any stage of these proceedings.
4. That this Decision and Order shall have the same force and effect as a Decision and Order made after a full administrative hearing.
5. That the entire record on which this Decision and Order shall be based shall consist solely of the complaint, the order of reference, and the Settlement Agreement.
6. That the parties have waived any further procedural steps before the Administrative Law Judge and OCAHO.
7. That the parties hereto have waived any right to challenge or contest the validity of this

Decision and Order in accordance with the Settlement Agreement.

8. That any hearing previously scheduled is hereby cancelled.

9. That as provided in 28 C.F.R., Part 68, this Decision and Order shall become the Order of the Attorney General unless within thirty (30) days from this date the Chief Administrative Hearing Officer shall have modified or vacated it.

SO ORDERED.

Dated and entered this 6th day of June, 1997.

Ellen K. Thomas
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of June, 1997, I have served copies of the foregoing Final Decision and Order of Dismissal on the following persons at the addresses indicated:

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